

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOHN IMHOF,		:	
		:	
Plaintiff,		:	
		:	23 Civ. 1880 (JPC)
-v-		:	
		:	<u>ORDER</u>
NEW YORK CITY HOUSING AUTHORITY <i>et al.</i> ,		:	
		:	
Defendants.		:	
		:	
-----X			

JOHN P. CRONAN, United States District Judge:

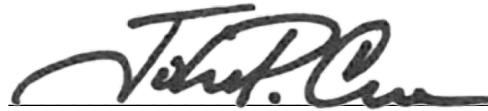
The Court is in receipt of the parties’ supplemental briefs, Dkts. 126-27. The parties should be prepared to thoroughly discuss the following issues at the oral argument scheduled for June 9, 2025:

1. Whether the Supreme Court’s analysis in *United States v. Burke*, 504 U.S. 229 (1992) is relevant to the meaning of “personal injury” as used in the Federal Tort Claims Act (“FTCA”) in light of the Second Circuit’s holding that the FTCA applies only “if there was a ‘personal injury’ *as defined by state law.*” *Birnbaum v. United States*, 588 F.2d 319, 322 (2d Cir. 1978) (emphasis added); *see also Devlin v. United States*, 352 F.3d 525, 534 (2d Cir. 2003) (stating that the court was “inclined to agree with the state-incorporation approach” and that courts in this Circuit “may well be bound by *Birnbaum*”).
2. Whether New York law would consider Plaintiff’s claims under the New York City Human Rights Law to be claims for “personal injury.” *See* N.Y. Gen. Constr. Law § 37-a (defining “personal injury” to include “libel, slander and malicious prosecution; also an assault, battery, false imprisonment, or other actionable injury to the person either of the plaintiff,

or of another”); *Margerum v. City of Buffalo*, 28 N.E.3d 515, 519 (N.Y. 2015) (holding that, for purposes of General Municipal Law Sections 50-e and 50-i, “[h]uman rights claims are not tort actions . . . and are not personal injury, wrongful death, or damage to personal property claims”).

SO ORDERED.

Dated: June 6, 2025
New York, New York

A handwritten signature in black ink, appearing to read "John P. Cronan", written over a horizontal line.

JOHN P. CRONAN
United States District Judge